

REMARKS

In light of the above amendments and remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1, 3, 9-10 and 12 have been amended. Claims 8 and 11 have been canceled, without prejudice. Claims 1-7, 9-10 and 12-19 are pending.

The specification has been amended to include section headings, as requested by the Examiner.

Claims 1-3, 6-10, 12-14 and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Pubn. 2003/01792930 ("Kullik"). In addition, claims 4-5, 15 and 17 were rejected under 35 U.S.C. § 103(a) as being obvious over Kullik in view of U.S. Patent No. 6,050,262 ("Jay"); claim 11 was rejected under 35 U.S.C. § 103(a) as being obvious over Kullik in view of U.S. Patent Pubn. 2002/0185130 ("Wright"); and claims 18-19 were rejected under 35 U.S.C. § 103(a) as being obvious over Kullik in view of U.S. Patent No. 6,581,595 ("Murdock").

It is respectfully submitted that Kullik, which was published on September 18, 2003, cannot constitute prior art under 35 U.S.C. § 102(b) ("Section 102(b)"). The subject application is a U.S. national stage application of International Application No. PCT/IB2004/002440, which was filed on July 5, 2004 ("International Application"). Kullik, thus, was published less than one year prior to the filing date of the International Application. Therefore, for at least this reason, Kullik is not prior art under Section 102(b). Kullik, however, may constitute prior art under 35 U.S.C. § 102(e) ("Section 102(e)"). Accordingly, applicant responds to this Action under the assumption that the Examiner intended to cite Kullik as being prior art under Section 102(e).

Independent claim 1, as amended, is directed to a breathing assistance device including, in relevant part, a

console including a central control unit for operating the device, and a ventilator integrated into a removable module "removably connectable to the console." (See specification, for example, at pg. 12, ln. 26-27 and pg. 15, ln. 6-10; FIG. 5). In addition, claim 1 requires that the module includes at least one sensor for acquiring a parameter representative of operation of the device. Advantageously, the removable module of the claimed breathing assistance device may be removed from its connection with a console, which includes a central control unit for operating the device, to provide that the ventilator integrated into the removable module may be simply, rapidly and easily disassembled for cleaning purposes. (See specification, for example, at pg. 15, ln. 16-17).

In contrast to the claimed invention, Kullik appears to teach a compressor that is detachably connected to a breathing mask. Nowhere does Kullik teach or suggest integrating a ventilator (compressor) into a removable module which is removably connectable to a console of a breathing assistance device including a central control unit for operating the device, as required by claim 1.

Accordingly, independent claim 1 is patentable over Kullik for at least the above reason.

In addition, it is respectfully submitted that Jay, Wright or Murdock, alone or in any combination, do not cure the deficiencies of Kullik with respect the requirements of the claimed invention, as discussed above. Jay, similar to Kullik, concerns connecting a ventilator, such as by use of threading or with a clip system, at a face (gas) mask. The applied portions of Wright describe a breathing assistance apparatus having wireless data transmission capabilities. Further, the applied portions of Murdock describe that a breathing assistance apparatus may be of the continuous positive air pressure ("CPAP") type or the bilevel positive airway pressure ("BPAP") type.

Accordingly, claims 2-7, 9-10 and 12-19, which depend directly or indirectly from independent claim 1, are patentable over Kullik alone, or in combination with one or more of Jay, Wright or Murdock, for the same reasons as set forth above for claim 1 and because of the additional restrictions they add.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge applicant's Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By

Davy E. Zonefaich

Registration No.: 37,267
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant